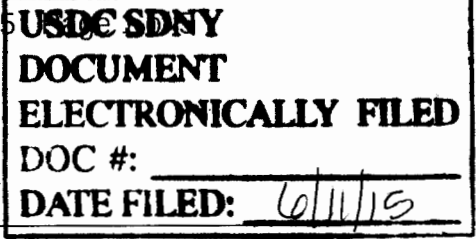


Case 1:07-cv-10470-SAS Document 603-1 Filed 06/10/15



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**In Re: Methyl Tertiary Butyl Ether Products
Liability Litigation**

This document pertains to:

*Commonwealth of Puerto Rico, et al. v. Shell Oil Co.,
et al., No. 07 Civ. 10470 (SAS)*

Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88

Civil Action

**STIPULATED ORDER OF DISMISSAL WITHOUT PREJUDICE AS TO
CERTAIN CLAIMS AGAINST THE SHELL DEFENDANTS**

WHEREAS, Plaintiff, the Commonwealth of Puerto Rico and the Commonwealth of Puerto Rico through the Puerto Rico Environmental Quality Board (collectively referred to as the "Commonwealth"), alleges causes of action against Shell Chemical Yabucoa Inc., Shell Oil Company, Motiva Enterprises LLC, Shell International Petroleum Company Limited, and Shell Western Supply and Trading Limited (collectively the "Shell Defendants") in the Commonwealth's Third Amended Complaint in the above-captioned action;

WHEREAS, the Shell Defendants represent that none of the Shell Defendants ever owned, operated, or in any way controlled any gasoline service stations or underground storage tanks in Puerto Rico.

WHEREAS, all claims and causes of action asserted by Plaintiff against defendants Shell Chemical Yabucoa Inc. and Motiva Enterprises LLC in the Third Amended Complaint were dismissed with prejudice as to the Phase 1 Trial Sites on September 12, 2014 in CMO 117.

WHEREAS, Count II (nuisance), Count III (trespass), Count V (EPPA), Count VI (CERCLA), Count VII (TSCA), and Count VIII (RCRA) of the Third Amended Complaint as to defendants Shell Oil Company, Shell International Petroleum Company Limited, and Shell Western Supply and Trading Limited were previously dismissed with prejudice as to the Phase 1 Trial Sites on September 12, 2014 in CMO 117.

WHEREAS, the Shell Defendants filed a motion for summary judgment on September 26, 2014, as to all remaining claims against them in the above-captioned action;

WHEREAS, in its opposition to that summary judgment motion, the Commonwealth agreed to dismiss

without prejudice Count II (nuisance) and Count III (trespass) in the Third Amended Complaint in the above-captioned action against Shell Western Supply and Trading Limited, Shell Oil Company, Motiva Enterprises LLC, and Shell Chemical Yabucoa, Inc.;

WHEREAS, the Commonwealth further agreed to dismiss without prejudice Count VIII (RCRA) in the Third Amended Complaint in the above-captioned action against Shell Chemical Yabucoa Inc., Shell Oil Company, Motiva Enterprises LLC, Shell International Petroleum Company Limited, and Shell Western Supply and Trading Limited;

THEREFORE, IT IS STIPULATED AND AGREED that

Count II (nuisance) and Count III (trespass) of the Third Amended Complaint as to defendants Shell Western Supply and Trading Limited, Shell Oil Company, Motiva Enterprises LLC, and Shell Chemical Yabucoa, Inc. are dismissed without prejudice and with each party bearing its own costs and attorneys' fees, pursuant to Fed. R. Civ. Proc. 41(a)(2);

IT IS FURTHER STIPULATED AND AGREED that Count VIII (RCRA) of the Third Amended Complaint as to Shell Chemical Yabucoa Inc., Shell Oil Company, Motiva Enterprises LLC, Shell International Petroleum Company Limited, and Shell Western Supply and Trading Limited is dismissed without prejudice and with each party bearing its own costs and attorneys' fees, pursuant to Fed. R. Civ. Proc. 41(a)(2);

IT IS FURTHER STIPULATED AND AGREED that subsequent to entry of this Stipulated Order of Dismissal as to Certain Claims Against the Shell Defendants and prior to the conclusion of this case (inclusive of appeals), the Plaintiff shall have the right to further amend the complaint filed in this action and pursue this action against the Shell Defendants being dismissed without prejudice herein, or to file a new judicial or administrative action to assert

claims against the Shell Defendants being dismissed without prejudice herein, but if and only if the Plaintiff determines that any representation contained herein is inaccurate;

IT IS FURTHER STIPULATED AND AGREED that to the extent the Plaintiff exercises its right to further amend the Complaint in this action pursuant to the previous paragraph herein, the Shell Defendants further covenant not to assert, plead, or raise in any fashion, whether by answer, motion, or otherwise, any defense or avoidance on the grounds of the running of the statute of limitations or prescription under any provision of law, or on the grounds of laches, estoppel, waiver, or other similar defenses concerning timeliness of commencing a judicial or administrative action. The Shell Defendants expressly reserve the right to raise any defense on the grounds of the running of the statute of limitations, prescription, laches, estoppel, waiver or other similar defense to the extent that such defense would have been available to such Shell Defendant as of the filing of the complaint first naming such Shell Defendant in this action in the past;

IT IS FURTHER STIPULATED AND AGREED that this Stipulated Order of Dismissal as to Certain Claims Against the Shell Defendants does not in any way constitute, and shall not be construed as, an admission or acknowledgment by the Plaintiff that any legal or equitable defense, including those based upon statute of limitations, prescription, repose or laches, is applicable to the Plaintiff's claims that have been, or may be, asserted in this action;

IT IS FURTHER STIPULATED AND AGREED that nothing herein shall preclude the commencement of any regulatory enforcement action by the Plaintiff under any federal or Commonwealth law to protect public health and safety or the environment;

IT IS FURTHER STIPULATED AND AGREED that this Stipulated Order of Dismissal as to Certain Claims Against the Shell Defendants does not limit in any way the nature or scope of any claims that the Plaintiff could bring in any future judicial or administrative action against the Shell Defendants except a case regarding the alleged contamination of waters of the Commonwealth of Puerto Rico by MTBE prior to the date of this Stipulated Order.

s/ Jorge L. Flores De Jesus

Puerto Rico Department of Justice

Jorge L. Flores De Jesus
Legal Counsel
Olimpo Street, Pda. 11
San Juan, Puerto Rico 00907

s/ Orlando H. Martinez

Orlando H. Martinez Law Offices

Orlando H. Martinez-Echevarria
Special Counsel for the Secretary of Justice
Centro de Seguros, Suite 413
701 Ponce de Leon Avenue
San Juan, Puerto Rico 00907

/s John K. Dema

Law Offices of John K., Dema, P.C.

John K. Dema
Special Counsel for the Secretary of Justice
1236 Strand Street, Suite 103
Christiansted, St. Croix
U.S. Virgin Islands 000820-5008

/s William J. Jackson

Jackson Gilmour & Dobbs, P.C.

William J. Jackson
John D.S. Gilmour
Special Counsel for the Secretary of Justice
3900 Essex, Suite 700
Houston, Texas 77027

/s Michael Axline

Miller & Axline

Duane C. Miller
Michael D. Axline
Special Counsel for the Secretary of Justice
1050 Fulton Avenue, Suite 100
Sacramento, CA 95825-4225

Attorneys for Plaintiff

Dated: June 10, 2015


By: s/ Ruben F. Reyna

Richard E. Wallace, Jr.
Ruben F. Reyna
SEDGWICK LLP
2900 K Street, N.W.
Harbourside, Suite 500
Washington, D.C. 20007
Telephone: 202.204.1000
Facsimile: 202.204.1001

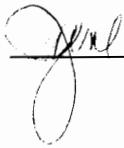
Attorneys for the Shell Defendants

Dated: June 10, 2015

SO ORDERED:



Hon. Shira A. Scheindlin
U.S.D.J.

DATE:  June 11, 2015